

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2298

Introduced by

Senators Thompson, Klein, Traynor

Representatives D. Johnson, Kunkel

1 A BILL for an Act to provide for creation of the Devils Lake basin water board; and to amend
2 and reenact section 54-10-14 of the North Dakota Century Code, relating to political subdivision
3 audits; and to declare an emergency.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. Definitions.** In sections 1 through 18 of this Act, unless the context
6 otherwise requires:

- 7 1. "Board" means the Devils Lake basin water board.
8 2. "Hydrologic boundary" means a natural ridge on the land surface that divides one
9 drainage area from another.
10 3. "Project" means any project relating to the management, conservation, protection,
11 development, and control of water resources, for preventing flood damage in the
12 Devils Lake basin, or protecting and promoting the health, safety, and general
13 welfare of the people of the Devils Lake basin.

14 **SECTION 2. Devils Lake basin water board.** Before October 1, 1997, the boards of
15 county commissioners of the counties of Benson, Cavalier, Eddy, Nelson, Pierce, Ramsey,
16 Rolette, Towner, and Walsh shall determine by resolution whether to establish the Devils Lake
17 basin water board. The board becomes operative when counties comprising sixty-six percent
18 of the geographic land area of the Devils Lake basin have determined by resolution of the
19 board of county commissioners to establish the board. The Devils Lake basin water board is a
20 governmental agency, body politic and corporate, with the authority to exercise the power
21 specified in, or reasonably implied from, sections 1 through 18 of this Act.

22 **SECTION 3. Survey.** The state engineer shall cause to be made a survey and map of
23 the hydrologic boundaries of the Devils Lake basin and each subbasin. The survey must show
24 the courses and distances of the boundaries and the quantity of land contained within the

1 Devils Lake basin and each subbasin. The survey must be made along quarter quarter
2 property lines.

3 **SECTION 4. Board of directors - Officers - Meetings - Compensation.** The board
4 of directors consists of nine members. Except as provided in section 6, each director must
5 reside within the area of the director's county comprising the Devils Lake basin water board.
6 The board of directors shall elect from the directors a chairman, vice chairman, and secretary.
7 The chairman shall designate the time and place for the board of directors to meet; however,
8 the board of directors shall meet if three directors call for a meeting. The secretary shall notify,
9 by mail, each director of meetings. The board of directors must meet at least once each
10 quarter. A director is entitled to receive compensation in the amount not to exceed the amount
11 provided for members of the legislative council by section 54-35-10 and is entitled to be
12 reimbursed for mileage and expenses in the amount provided for state officials by sections
13 44-08-04 and 54-06-09.

14 **SECTION 5. Initial directors.** The board of county commissioners of each county
15 participating in the board shall appoint an individual who meets the requirements of section 6 of
16 this Act to the initial board of directors. The initial directors shall serve until their successors
17 are duly elected and qualified. The initial board of directors shall meet at a time and place
18 designated by the state engineer. An initial director may be a candidate for election to the
19 board of directors.

20 **SECTION 6. Election of directors - Petition deadlines.** Any individual who is a
21 qualified elector of a county participating in the board and who resides within that area of the
22 county which is within the Devils Lake basin, who aspires to the office of director of the board,
23 shall present, not more than seventy days but before four p.m. of the sixtieth day before any
24 primary election preceding a general election at which a director of the board is to be elected,
25 to the county auditor of the county in which that person resides a petition giving that individual's
26 name, post-office address, and the title of the office of the board to which that person is seeking
27 election. If no qualified elector seeks the office of director of the board, the board of county
28 commissioners shall appoint a resident of that county to the position of director.

29 **SECTION 7. Election of directors - Petition requirements.** A petition of candidacy
30 for a director of the board must contain at least twenty-five but no more than three hundred
31 signatures of qualified electors of the county which is within the boundaries of the Devils Lake

basin. Each signer of the petition shall include with that signer's name that signer's mailing address. The petition must be accompanied by an affidavit substantially as follows:

State of North Dakota)

)ss.

County of)

I, , am a qualified elector of County, North Dakota; am a candidate for the office of director of the Devils Lake Basin Water Board to be elected at the primary election to be held on the day of , 19 ; and request that my name be printed upon the no-party primary election ballot as a candidate for this office.

Subscribed and sworn to before me this day of , 19 .

Notary Public, North Dakota

SECTION 8. Election of directors at large from counties - Names on ballot - Election returns. Upon receipt of a valid petition of candidacy for a director of the board, the county auditor shall place, without fee, the name of the candidate on the no-party primary election ballot as a candidate for the office of director. All candidates for election to the board must be voted on by the qualified electors of the entire Devils Lake basin, but there must be one director elected from each of the nine counties. At the primary election, the votes must be canvassed, returned certified, and certificates of election issued in the manner provided by law for the election of county officers. The candidate receiving the highest number of votes is elected.

SECTION 9. Term of office of directors. A member of the board of directors shall hold office for a term of four years, except that four of the initial directors shall hold office for a term of two years, and five of the initial directors shall hold office for a term of four years. The directors to serve a two-year term must be determined by lot. Directors elected thereafter shall hold office for a term of four years. If the office of any director becomes vacant by reason of the failure of any director to qualify or for any other reason, the board of county commissioners of the county in which the vacancy occurs shall appoint the director's successor to fill the vacancy. A director appointed to fill a vacancy shall take office immediately and shall hold

1 office for the unexpired term of the director whose office has become vacant and until a
2 successor has been elected.

3 **SECTION 10. Manager.** The board of directors may appoint a manager. The board of
4 directors may designate the manager its general agent in respect to the operation and
5 maintenance of any project, but any agent is subject to the supervision, limitation, and control
6 of the board of directors.

7 **SECTION 11. Powers of the board of directors.** The board of directors may:

- 8 1. Exercise the power of eminent domain with the consent of the water resource
9 district board of the county in which the project is located in the manner provided
10 by chapter 61-16.1 for the purpose of acquiring and securing any right, title,
11 interest, estate, or easement necessary to carry out the duties imposed by
12 sections 1 through 18 of this Act.
- 13 2. Cooperate and contract with the state, its agencies, or its political subdivisions, or
14 any agency of the United States, in research and investigation or other activities
15 promoting the establishment, construction, development, or operation of any
16 project, or any part of a project.
- 17 3. Furnish assurances of cooperation, and as principal or guarantor, or both, contract
18 with agencies of the United States, and with public corporations and political
19 subdivisions of this state for the performance of obligations for the construction,
20 operation, or maintenance of any project, or any part of a project.
- 21 4. Construct or purchase separately or in cooperation with agencies of the United
22 States, or this state or its agencies or political subdivisions, and equip, maintain,
23 and operate an office and principal place of business for the board, or other
24 buildings or facilities to carry out activities authorized by sections 1 through 18 of
25 this Act.
- 26 5. Appoint and fix the compensation of employees to conduct the business and
27 affairs of the board, and procure the services of engineers and other technical
28 experts, and retain an attorney to assist, advise, and act for it in its proceedings.
- 29 6. Appoint from the board of directors an executive committee and delegate to the
30 executive committee the duties and work of the board of directors in connection

1 with the business affairs involved in the development, construction, operation, and
2 maintenance of any project, or any part of a project.

3 7. Contract for a supply of water from the United States or the state water
4 commission and sell, lease, and otherwise contract to furnish any such water for
5 beneficial use to persons within or outside the Devils Lake basin.

6 8. Accept, on behalf of the board, appointment of the board as fiscal agent of the
7 United States or the state water commission and authorization to make collections
8 of money for and on behalf of the United States or the state water commission in
9 connection with any project, or any part of a project.

10 9. Sell or exchange any property purchased or acquired by the board. However, the
11 board must hold a public hearing and obtain the approval of the board of county
12 commissioners of the county in which the property is located before selling or
13 exchanging the property. All moneys received pursuant to any sale or exchange
14 must be deposited to the credit of the board and may be disbursed for the payment
15 of expenses of the board.

16 10. Construct, acquire, purchase, lease, alter, repair, modify, operate, develop, and
17 maintain any project, or any part of a project, and to determine whether a project
18 has basinwide significance.

19 11. Form subbasin boards to advise the Devils Lake basin water board concerning
20 water issues within that subbasin.

21 12. Exercise the same authority, powers, and duties as a water resource district under
22 chapter 61-16.1.

23 **SECTION 12. Board budget - Tax levy.** For each taxable year, the board may levy a
24 tax of not to exceed three mills annually on each dollar of taxable valuation within the
25 boundaries of the Devils Lake basin for the payment of expenses of the board. All moneys
26 collected pursuant to the levy must be deposited to the credit of the board. Notwithstanding
27 any language to the contrary in sections 1 through 18 of this Act, the moneys collected
28 pursuant to the levy may be used only for expenses and may not be used or pledged for any
29 other purpose. The board of directors may invest any funds, not needed for immediate
30 disbursement or which are held in reserve for future payments, in any of the following:

- 1 1. Direct obligations of, or obligations which are fully guaranteed by, the United
- 2 States.
- 3 2. Obligations issued or fully insured by any agency or instrumentality of the United
- 4 States and which are backed by the full faith and credit of the United States.
- 5 3. Interest-bearing time or demand deposits, or certificates of deposit, with the Bank
- 6 of North Dakota or any banking association or savings institution provided that the
- 7 deposits or certificates, if other than with the Bank of North Dakota, are fully
- 8 insured by the federal deposit insurance corporation or secured by obligations
- 9 described in subsection 1 or 2.
- 10 4. Bonds or certificates of indebtedness of this state or any of its political
- 11 subdivisions.
- 12 5. Repurchase agreements with a national banking association or a bank or trust
- 13 company organized under the laws of any state, which agreements are secured by
- 14 a perfected security interest in one or more of the securities described in
- 15 subsection 1 or 2.

16 Disbursements may be made only upon vouchers signed by the chairman of the board of

17 directors.

18 **SECTION 13. Board budget - Determination of amount to be levied - Approval -**

19 **Adoption of levy - Limitation.** In July of each year the board of directors shall estimate and

20 itemize all the administrative expenses and obligations of the board, including expenses of

21 directors, expenses of operating the office, and any other obligations and liabilities relating to

22 administrative, clerical, engineering, surveying, investigations, and legal matters. Upon the

23 completion and adoption of the budget, the board of directors shall make a tax levy within any

24 applicable levy limitations in mills in an amount sufficient to meet the budget. The levy must be

25 in the form of a resolution adopted by the board of directors.

26 **SECTION 14. Board of directors to certify levy to county auditors and state tax**

27 **commissioner.** Upon the adoption and approval of the annual mill levy, but no later than

28 October first, the secretary of the board of directors shall send one certified copy of the mill levy

29 to the county auditor of each county in which land comprising the board is located. The

30 secretary shall send a copy of each document to the state tax commissioner.

1 **SECTION 15. County auditors to extend tax levy.** The county auditor of each
2 county in which land comprising the Devils Lake basin is located, to whom a mill levy is certified
3 in accordance with section 14, shall extend the levy upon the tax lists for the current year
4 against property within that portion of the county in which any land located within the Devils
5 Lake basin is located in the same manner and with the same effect as other taxes are
6 extended.

7 **SECTION 16. County treasurer to collect and remit board taxes.** The treasurer of
8 each county in which a mill levy has been certified shall collect the taxes, together with interest
9 and penalty thereon, if any, in the same manner as the general taxes are collected, and shall
10 pay to the board of directors, on demand, all taxes, interest, and penalties so collected.

11 **SECTION 17. Proceedings to confirm contract.** The board of directors, after
12 contracting with the United States government, this state, or with any public corporation or
13 political subdivision of this state, may commence a special proceeding in which the contract is
14 judicially examined, approved, and confirmed, or disapproved and disaffirmed. The proceeding
15 must comply as nearly as possible with the procedure required in the case of irrigation districts
16 under the laws of this state.

17 **SECTION 18. Easement granted for ditches, canals, tramways, and transmission**
18 **lines on any public lands.** In connection with the construction and development of any
19 project, there is granted over all lands belonging to the state, including lands owned or acquired
20 for highway right-of-way purposes, a right of way for pipelines, connections, valves, and all
21 other appurtenant facilities constructed as part of any project; provided, however, that the
22 director of the department of transportation and the state engineer must approve the plans of
23 the board with respect to the use of any and all right of way of roads before the grant becomes
24 effective.

25 **SECTION 19. AMENDMENT.** Section 54-10-14 of the 1995 Supplement to the North
26 Dakota Century Code is amended and reenacted as follows:

27 **54-10-14. Political subdivisions - Audits - Fees - Alternative audits and reports.**

28 The state auditor shall audit the following political subdivisions once every two years, except as
29 provided in this section or otherwise by law:

- 30 1. Counties.
31 2. Cities.

- 1 3. Park districts.
- 2 4. School districts.
- 3 5. ~~Firemen's~~ Firefighters relief associations.
- 4 6. Airport authorities.
- 5 7. Public libraries.
- 6 8. Water resource districts.
- 7 9. Garrison diversion conservancy district.
- 8 10. Rural fire protection districts.
- 9 11. Special education districts.
- 10 12. Area vocational and technology centers.
- 11 13. Correction centers.
- 12 14. Recreation service districts.
- 13 15. Weed boards.
- 14 16. Irrigation districts.
- 15 17. Rural ambulance service districts.
- 16 18. ~~West river water supply district.~~
- 17 ~~49.~~ Southwest water authority.
- 18 19. Devils Lake basin water board.
- 19 20. Soil conservation districts.

20 The state auditor shall charge the political subdivision an amount equal to the fair value
21 of the audit and any other services rendered. Fees for the audit performed by the state auditor
22 must be paid to the state treasurer by the political subdivision audited. The fees must be
23 deposited in the state auditor operating account. Expenses relating to political subdivision
24 audits must be paid from the state auditor operating account, within the limits of legislative
25 appropriation.

26 The state auditor may in lieu of conducting an audit every two years require annual
27 reports from school districts with less than one hundred enrolled students, cities with less than
28 three hundred population, and other political subdivisions subject to this section, or otherwise
29 provided by law, with less than one hundred thousand dollars of annual receipts. The reports
30 must contain the financial information required by the state auditor. The state auditor may also
31 make such additional examination or audit as deemed necessary in addition to the annual

1 report. When a report is not filed, the state auditor may charge the political subdivision an
2 amount equal to the fair value of the additional examination or audit and any other services
3 rendered. The state auditor may charge a political subdivision a fee not to exceed fifty dollars
4 an hour for the costs of reviewing the annual report.

5 A political subdivision may, at the option of its governing body, be audited by a certified
6 public accountant or licensed public accountant rather than by the state auditor. The public
7 accountant shall comply with generally accepted government auditing standards for audits of
8 political subdivisions. The report must be in the form and content required by the state auditor.
9 The number of copies of the audit report requested by the state auditor must be filed with the
10 state auditor when the public accountant delivers the audit report to the political subdivision.
11 The state auditor shall review the audit reports to determine if the reports are in the required
12 form and have the required content, and if the audit meets generally accepted government
13 auditing standards. The state auditor may also periodically review the public accountant's
14 workpapers to determine if the audit meets generally accepted government auditing standards.
15 If the reports are in the required form and have the required content, and the reports and
16 workpapers comply with generally accepted government auditing standards, the state auditor
17 shall accept the audit report. The state auditor may charge the political subdivision a fee of up
18 to fifty dollars an hour, but not to exceed five hundred dollars per review, for the related costs of
19 reviewing the audit report and workpapers.

20 A political subdivision may not pay a public accountant for an audit until the state
21 auditor has accepted the audit. However, a political subdivision may make progress payments
22 to the public accountant. A political subdivision shall retain twenty percent of any progress
23 payment until the audit report is accepted by the state auditor.

24 The state auditor may require the correction of any irregularities, objectionable
25 accounting procedures, or illegal actions on the part of the governing board, officers, or
26 employees of the political subdivision disclosed by the audit report or workpapers, and failure to
27 make the corrections ~~shall result~~ results in audits being resumed by the state auditor until the
28 irregularities, objectionable accounting procedures, or illegal actions are corrected.

29 **SECTION 20. EMERGENCY.** This Act is declared to be an emergency measure.